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November 24, 2004

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NOV 24 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
c/o Natek, Inc.
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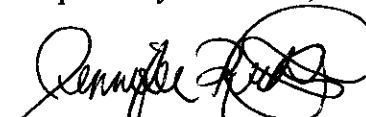
**Re: WT Docket No. 03-66
Supplement to Petition for Reconsideration
Dismissed Modification Application for WHR901
(File No. 19950524DD)**

Dear Ms. Dortch:

On behalf of Sprint Corporation and its wholly-owned subsidiaries WBSWP Licensing Corporation and Wireless Broadcasting Systems of West Palm, Inc., and pursuant to Sections 1.51, 1.106 and 1.429 of the Commission's rules, please find attached an original and fourteen (14) copies of a Supplement to the Petition for Reconsideration filed on August 30, 2004 regarding the Commission's dismissal of the above-referenced modification application.

Please date-stamp one enclosed copy of this submission and return it to my attention in the self-addressed, stamped, return envelope. Should any questions arise regarding this filing, please communicate directly with the undersigned. Thank you.

Respectfully submitted,


Jennifer L. Richter

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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*Federal Communications Commission
Office of Secretary*

In the Matter of)

Dismissed Modification Application for WHR901)

Florida Atlantic University)

Boynton Beach, Florida)

WT Docket No. 03-66

File No. 19950524DD

To: The Commission

SUPPLEMENT TO PETITION FOR RECONSIDERATION

Sprint Corporation ("Sprint") together with its wholly-owned subsidiaries, Wireless Broadcasting Systems of West Palm, Inc. and WBSWP Licensing Corporation (collectively "WBS"), through counsel and pursuant to Sections 1.106 and 1.429 of the Commission's rules,¹ submit this supplement to the petition for reconsideration that was filed on August 30, 2004 ("Petition") regarding the Commission's dismissal of Florida Atlantic University's ("FAU") collocation application for WHR901 in Boynton Beach, Florida (the "FAU Modification Application").² Sprint/WBS has standing in this matter because Sprint/WBS is the excess capacity lessee of FAU on these channels, and Sprint/WBS joined FAU in filing the Petition.

¹ 47 C.F.R. §§ 1.106, 1.429.

² The FAU Modification Application was filed on May 24, 1995 (File No. 19950524DD), and was accepted for filing by the Commission on September 30, 1996.

The Commission dismissed the FAU Modification Application as “mutually exclusive” as part of its July 29, 2004 *Report and Order and Further Notice of Proposed Rulemaking*.³ As the Petition makes clear, there is no mutual exclusivity between the FAU Modification Application and any other previously proposed or licensed facility in south Florida.

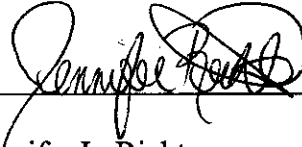
The purpose of this Supplement is to clarify, to the extent the Commission has not reviewed the FAU Modification Application in detail, that in addition to the reasons set forth in the Petition, the FAU Modification Application should not have been dismissed because Paragraph 58 of the *Report and Order* directs the Bureau not to dismiss modification applications that could change an applicant’s protected service area.⁴ The FAU Modification Application seeks to change the protected service area of the station and therefore should not have been dismissed.

Since the FAU Modification Application is not mutually exclusive with any previously proposed or licensed station, and since the application seeks to change the protected service area for the station, FAU’s Modification Application should be reinstated and immediately processed.

³ *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165 (2004) (“*Report and Order*”).

⁴ *Id.* at 14191-92.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer Richter", is written over a horizontal line.

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Attorney for Sprint Corporation
WBSWP Licensing Corporation

Dated: November 24, 2004

CERTIFICATE OF SERVICE

I, Theresa Rollins, do hereby certify that I have on this 24th day of November 2004, had copies of the foregoing **SUPPLEMENT TO PETITION FOR RECONSIDERATION** delivered to the following via electronic mail or overnight delivery as indicated:

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Theresa Rollins

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**Federal Communications Commission
Office of Secretary**

[illegible]

WT Docket No. 03-66

File No. 19950524DD

✓
✓
✓
✓

PETITION FOR RECONSIDERATION

dc-390142

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Dismissed Modification Application for WHR901)	WT Docket No. 03-66
)	
Florida Atlantic University)	File No. 19950524DD
)	
Boynton Beach, Florida)	
)	

To: The Commission

PETITION FOR RECONSIDERATION

Florida Atlantic University ("FAU") and its excess capacity lessee WBSWP Licensing Corporation ("WBSWP," together with FAU, "Petitioners"), a wholly-owned subsidiary of Sprint Corporation, through counsel and pursuant to Sections 1.106 and 1.429 of the Commission's rules,¹ submit this petition for reconsideration ("Petition") of the Commission's dismissal of FAU's collocation application for WHR901 in Boynton Beach, Florida (the "FAU Modification Application").² The Commission dismissed the FAU Modification Application as "mutually exclusive" as part of its July 29, 2004 *Report and Order and Further Notice of Proposed Rulemaking*.³ The Commission did not identify the application that created the mutual

¹ 47 C.F.R. §§ 1.106, 1.429.

² The FAU Modification Application was filed on May 24, 1995 (File No. 19950524DD), and was accepted for filing by the Commission on September 30, 1996.

³ *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 03-66, FCC 04-135 (rel. July 29, 2004) ("*Report and Order*").

exclusivity with the FAU Modification Application.⁴ However, based upon a 1996 Public Notice (discussed below), Petitioners believe the Commission intended that Exhibit E of the *Report and Order* would list as mutually exclusive (and that the *Report and Order* would dismiss) an application filed by the School Board of Dade County for Miami, Florida (the “Dade Application”).⁵ Regardless, the FAU Modification Application is not mutually exclusive with any previously proposed or licensed facilities, including the facilities proposed in the Dade Application. The Dade Application is fatally defective, should never have been accepted for filing, should have been dismissed nine (9) years ago, and certainly should be dismissed now.⁶ The FAU Modification Application should be reinstated and processed.

⁴ *Report and Order*, Appendix E, Dismissed Mutually Exclusive ITFS Applications.

⁵ The Dade Application was filed on September 15, 1995 (File No. 19950915ZA), and was accepted for filing by the Commission on September 30, 1996. In addition to the fatal defects in the Dade Application discussed in this Petition, the Dade Application is also defective because it was filed as an amendment to an application that was granted six (6) months earlier (File No. 940819DE). The application was, therefore, a modification application filed outside of an authorized filing window and not submitted pursuant to any exception to the then applicable filing freeze. *See Amendment of Part 74 of the Commission’s Rules With Regard to the Instructional Television Fixed Service*, Report and Order, 10 FCC Rcd 2907, 2910–11 (1995), effective May 25, 1995, 60 Fed. Reg. 20241 (Apr. 25, 1995), as amended 60 Fed. Reg. 28546 (June 1, 1995) (major modifications or amendments with the same effect will not be exempted from the window filing requirement).

⁶ Other applications filed for Miami are similarly defective under Section 74.903 for reasons of harmful interference and should have been dismissed years ago: (1) Modification application filed by the Friends of WLRN, Inc., File No. BMPLIF950515DA, as modified by a May 22, 1995 application (missing consent letter from the School Board of Broward County); (2) Modification application filed by the School Board of Dade County regarding KTB85, File No. BMPLIF19950915HW (missing consent letter from the School Board of Broward County). Petitioners note that the KTB85 application was correctly dismissed pursuant to the *Report and Order* as mutually exclusive.

The Commission's 1996 Designation of the FAU Modification Application and the Dade Application as Mutually Exclusive Was in Error.

In 1996 the Commission released a Public Notice, *ITFS Applications Accepted for Filing*,⁷ which listed the FAU Modification Application and the Dade Application as mutually exclusive (the “1996 MX Notice”). Petitioners timely filed a Petition to Deny asserting that the 1996 MX Notice improperly listed the Dade Application as acceptable for filing. Petitioners explained that the Dade Application is fatally and fundamentally flawed, unacceptable for filing and, therefore, *not* mutually exclusive with the FAU Modification Application.⁸ The Petition to Deny remained pending when, in October of 1998, the Commission released a Public Notice encouraging settlements between mutually exclusive applicants (the “1998 Public Notice”).⁹ WBSWP responded to the 1998 Public Notice by reiterating that the 1996 MX Notice finding of mutual exclusivity between the FAU Modification Application and the Dade Application was in error because the Dade Application was unacceptable for filing and should be dismissed.¹⁰

Had the Commission properly dismissed the Dade Application pursuant to Sections 74.910 and 73.3566 of the Commission's rules as unacceptable for filing in 1995,¹¹ then the

⁷ See FCC Public Notice, *ITFS Applications Accepted for Filing*, Report No. 23836B (rel. Sept. 30, 1996).

⁸ See, *Petition to Dismiss or Deny*, filed by WBSWP on November 1, 1996 (“Petition to Deny”). See also, *Reply*, filed by WBSWP on March 5, 1997; *Opposition*, filed by Wireless Broadcasting Systems of America, Inc. (parent of WBSWP) on February 21, 1997.

⁹ FCC Public Notice, *ITFS Mutually Exclusive Applications – Settlement Period*, 13 FCC Rcd 20380 (Oct. 15, 1998).

¹⁰ Letter from Counsel in Response to FCC Public Notice, *ITFS Mutually Exclusive Applications – Settlement Period*, DA 98-2070 (Nov. 12, 1998). (“1998 Counsel Letter”)(Attached hereto as Exhibit 1).

¹¹ 47 C.F.R. §§ 74.910, 73.3566. Section 73.3566 is applicable to ITFS through Section 74.910 of the rules. Section 73.3566 states: “Applications which are determined to be patently not in accordance with the FCC rules, regulations or other requirements, unless accompanied by

(Footnote continues on next page.)

Dade Application would not have been listed as mutually exclusive with the FAU Modification Application in the *1996 MX Notice*. In addition, had the Commission properly responded to the Petition to Deny and subsequent pleadings filed by the Petitioners in 1996, 1997 and 1998 by dismissing the defective Dade Application, the FAU Modification Application would not have been dismissed as mutually exclusive pursuant to the 2004 *Report and Order*.

The Dade Application is Fatally Defective, Unacceptable for Filing, and Should be Dismissed.

The Dade Application is fatally defective because it predicts harmful interference to a previously licensed station, WHR897, in clear violation of Section 74.903 of the Commission's rules.¹² In addition, and in the alternative, the Dade Application does not contain an interference consent letter from the licensee of WHR897 as required by Section 74.903(b)(4) of the rules.¹³ The Dade Application violates the Commission's rules.

The station to which the Dade Application predicts interference, WHR897, is licensed to FAU for operation of Instructional Television Fixed Service ("ITFS") channels in Ft. Lauderdale, Florida. This station serves different receive sites than the FAU station in Boynton Beach, FL (WHR901), which is the subject of the FAU Modification Application. Each station is part of FAU's microwave network in southern Florida, and each is critical to the service of FAU's multiple campuses and receive site schools.

The School Board of Dade County concedes in the Dade Application that the proposed facilities will cause harmful interference to FAU's WHR897 facilities and receive sites in Ft.

(Footnote continued from previous page.)

an appropriate request for waiver, will be considered defective and will not be accepted for filing, or if inadvertently accepted for filing will be dismissed."

¹² *Id.* § 74.903.

¹³ *Id.* § 74.903(b)(4).

Lauderdale in violation of Section 74.903 of the Commission's rules.¹⁴ Absent an interference consent letter from FAU, however, the Dade Application is unacceptable for filing under Section 74.903(b)(4).¹⁵ FAU expressly informed the Commission, by letter dated October 30, 1996, that it will not supply such a consent letter, that "no measure of interference" to WHR897 is acceptable, and that:

[FAU] fully expect[s] to be afforded with 45 dB D/U protection at this site and all of our other sites. The School Board's proposed modification has demonstrated that it cannot achieve the FCC-required level of protection to FAU's Main Campus. In the interest of fairness and protection of our facilities, we fully expect that the FCC will not accept this application for filing, nor will it allow this application to move forward for grant.¹⁶

Accordingly, the Dade Application was unacceptable for filing as an initial matter and should have been dismissed. The Broadband Division of the Wireless Telecommunications Bureau (the "Bureau"), the Private Wireless Division of the Bureau and the Video Services Division of the Mass Media Bureau, each of whom has had (or has, in the case of the Broadband Division) jurisdiction over ITFS, have all affirmed that consent letters from affected parties must be filed with the original application.¹⁷ The Dade Application did not contain the required

¹⁴ See, Dade Application, Exhibit E-4, p.1.

¹⁵ 47 C.F.R. § 74.903(b)(4).

¹⁶ See Letter from Chancellor Charles B. Reed, Chancellor of the State University System of Florida, to William F. Caton, Secretary, Federal Communications Commission, October 30, 1996 (attached hereto as Exhibit 2). FAU is part of the state university system of Florida.

¹⁷ See *Wireless Cable of Florida*, 19 FCC Rcd 6390, 6392 (2004) ("The Commission has recently affirmed that consent letters must be filed with the original application because 'considering consent letters that did not exist at the time the original application was filed encourages the filing of incomplete applications and places an undue burden on the Commission's limited resources.'" citing *Educational Television Association of Metropolitan Cleveland, Inc.*, 18 FCC Rcd 15117, 15120 (2003).); see also *Centre Unified School District #397*, 18 FCC Rcd 19235, 19238 (2003) ("The Commission's Rules require applicants to submit consent letters from the affected parties with the original application. Pursuant to Section 74.903 of the Commission's Rules, an application for an ITFS station must protect previously proposed

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consent letter from FAU and, as FAU noted to the Commission, such a consent letter will not be granted due to the importance of WHR897 to FAU's educational mission. By not demonstrating interference protection to WHR897, and not obtaining an interference consent letter from FAU, the Dade Application violates Commission rules and precedent and must be dismissed.

Conclusion.

Exhibit E of the *Report and Order* incorrectly identifies the FAU Modification Application as mutually exclusive. The FAU Modification Application is not mutually exclusive with any previously proposed or licensed station, including the fatally defective Dade Application. The Dade Application should have been dismissed years ago pursuant to Commission rules and precedent that require the filing of interference consent letters with applications that predict interference with previously proposed or existing licensed stations. Had the Commission timely dismissed the Dade Application, the FAU Modification Application would not have been dismissed pursuant to the *Report and Order*.

Petitioners request that the Commission expeditiously reinstate the FAU Modification Application for processing. The FAU Modification Application is a critical part of a Marketwide Settlement Agreement¹⁸ filed with the Commission by FAU and other interested parties in

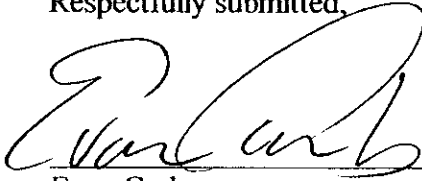
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facilities from interference and will not be granted if interference is predicted to occur.”); *Bartlesville Public Schools*, 18 FCC Rcd 18103, 18105 (2003) (“The Commission’s Rules require applicants to submit consent letters from the affected parties with the original application.” citing *Guadalupe Valley Electric Cooperation*, 11 FCC Rcd 7434, 7442-43 (1996); *In the Matter of 4,330 Applications for Authority to Construct and Operate Multipoint Distribution Service Stations at 62 Transmitter Sites*, 10 FCC Rcd 1335, 1465-66 (1994); *Family Entertainment Network, Inc.*, 9 FCC Rcd 566, 567-68 n.10 (1994).).

¹⁸ The Marketwide Settlement Agreement is discussed in further detail in a Petition for Reconsideration that is being filed simultaneously herewith with respect to the dismissal of a collocation application filed by WBSWP Licensing Corporation for KZB30, the H-group channels in Boynton Beach (File No. 9550910).

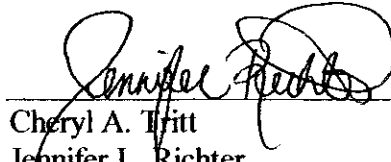
the West Palm Beach – Boca Raton market.¹⁹ FAU requests that its Modification Application be reinstated and processed as part of the Marketwide Settlement Agreement.

Respectfully submitted,



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Attorneys for WBSWP Licensing Corporation

Dated: August 30, 2004

¹⁹ See, *Marketwide Settlement Agreement and Joint Motion for Approval of Settlement and Request for Waiver of Cut-Off Rules*, filed May 24, 1995 (attached hereto as Exhibit 3).

CERTIFICATE OF SERVICE

I, Michael Rodgers, do hereby certify that I have on this 30th day of August 2004, had copies of the foregoing **PETITION FOR RECONSIDERATION** delivered to the following via electronic mail or by overnight delivery as indicated:

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Michael Rogers

EXHIBIT 1

**Letter to FCC
November 12, 1998**



Davis Wright Tremaine LLP

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November 12, 1998

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Washington, D.C. 20554

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NOV 12 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Application to Modify ITFS Station WHR-901, Palm Beach, Florida
Florida Atlantic University
File No. BMPLIF-950524DD

Application to Modify ITFS Station WHG-230, Miami, Florida
School Board of Dade County, Florida
File No. BMPLIF-950915ZA

Dear Mr. Pendarvis:

On October 15, 1998, the Commission released a Public Notice reminding ITFS applicants of a settlement period for mutually exclusive ITFS applications.¹ In light of that Public Notice, WBSWP Licensing Corp ("WBSWP"), by its attorneys, herein asks that the Commission reconsider its September 30, 1996 Public Notice announcing that the above-referenced applications had been accepted for filing and, upon initial review, found to be mutually exclusive.² Upon such reconsideration, WBSWP requests that the Commission dismiss the application to modify Station WHG-230 (the "WHG-230 Application").

As WBSWP has explained in this proceeding, the WHG-230 Application was defective at the time it was filed, remains defective, and should immediately be dismissed.³ The primary reason for this

¹ See "ITFS Mutually Exclusive Applications - Settlement Period," DA 98-2070.

² See "ITFS Applications Accepted For Filing," Report No. 23836B. WBSWP has entered into an agreement with Florida Atlantic University ("FAU") to lease the excess channel capacity of FAU's ITFS Station WHR-901 in connection with a wireless cable system that WBSWP is developing in the West Palm Beach, Florida market.

³ See WBSWP "Petition to Dismiss or Deny," November 1, 1996; WBSWP "Reply," March 5, 1997.

Clay C. Pendarvis, Esq., Acting Chief
November 12, 1998
Page 2

BT

dismissal is the objectionable interference that the applicant itself disclosed that the proposed facilities proposed would cause to ITFS Station WHR-897, Ft. Lauderdale, Florida, which is licensed to FAU.⁴ Under the Commission's Rules, the Commission may not even process the WHG-230 Application unless the Board supplies a "no-objection letter" from FAU.⁵

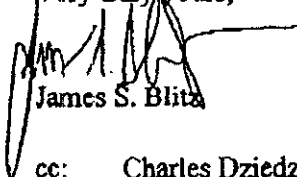
In this case, not only was no such letter ever provided, but FAU has expressly stated that it will never supply the no-objection letter required in order for the WHG-230 Application to be processed. The Commission has been informed that "no measure of interference to this site is acceptable" to Station WHR-897 and that the licensee:

"fully expect[s] to be afforded with 45 dB D/U protection at this site and all of our other sites. The School Board's proposed modification has demonstrated that it cannot achieve the FCC-required level of protection to FAU's Main Campus. In the interest of fairness and protection of our facilities, we fully expect that the FCC will not accept this application for filing, nor will it allow this application to move forward for grant."⁶

In light of this unequivocal statement that the School Board of Dade County, Florida will never receive the "no-objection" letter that it needs in order to validate the WHG-230 Application, the Commission should not have accepted the application to begin with. For this reason and the other reasons discussed in WBSWP's filings against the WHG-230 Application, the Commission should promptly dismiss the WHG-230 Application as a defective application that is patently not in accordance with the Commission's Rules. 47 C.F.R. §§ 73.3566, 74.910.

Should any questions arise in connection with this matter, please communicate directly with the undersigned.

Very truly yours,



James S. Blitz

cc: Charles Dziedzic, Esq.
Mr. Melvin Collins
Paul J. Sinderbrand, Esq.
William D. Wallace, Esq.
E. Ashton Johnston, Esq.

⁴ See WHG-230 Application, Exhibit E-4, p. 1.

⁵ See 47 C.F.R. § 74.903(b)(4). Moreover, the Commission will not necessarily grant an application simply because an affected ITFS licensee has supplied a no-objection letter.

⁶ Letter from Chancellor Charles B. Reed, Chancellor of the State University System of Florida, to William F. Caton, October 30, 1996. FAU is a part of the State University System of Florida.

EXHIBIT 2

**Letter from Chancellor
Charles B. Reed
October 30, 1996**



STATE UNIVERSITY SYSTEM OF FLORIDA

325 West Gaines Street, Tallahassee, Florida 32399-1930

October 30, 1996

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
Room 222
1919 M. Street N.W.
Washington, D.C. 20554

Attention: Clay Pendarvis
Melvin Collins

Dear Mr. Caton:

Florida Atlantic University (FAU) is the licensee of WHR-897, the C-group ITFS channels in Ft. Lauderdale, Florida. The School Board of Dade County is the licensee of WHG-230, the C-group of channels in Miami, Florida.

On September 15, 1995, the School Board proposed a modification to WHG-230 under file number DMPLIF 950952A. This modification is predicted to cause harmful electrical interference to all six of the received sites associated with WHR-897. The application states that the interference to five of the receive sites can be alleviated through antenna upgrades, but the interference to receive site R-6 cannot be cured. The School Board states that it is "contemplating securing consent regarding interference predicted to receive site R-6."

The School Board has not secured a consent letter from FAU, and the university cannot accept interference to receive site R-6. This site is FAU's Main Campus and no measure of interference to this site is acceptable. FAU serves hundreds of students with distance learning at the Main Campus. In addition, the Main Campus is an integral component of FAU's entire ITFS system, as it is used as a checkpoint for FAU's main transmission facilities. The Main Campus site is central to FAU's existing distance learning system and all of its future plans. We fully expect to be afforded with 45 dB D/U protection at this site and all of our other sites. The School Board's proposed modification has demonstrated that it cannot achieve the FCC-required level of protection to FAU's Main Campus. In the interest of fairness and protection of our facilities, we fully expect that the FCC will

AN EQUAL ACCESS/OPPORTUNITY—AFFIRMATIVE ACTION SYSTEM

University of Florida • Florida State University • Florida A&M University • University of South Florida • Florida Atlantic University
Gainesville Tallahassee Tallahassee Tampa Boca Raton

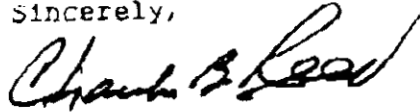
University of West Florida • University of Central Florida • Florida International University • University of Miami • Florida Gulf Coast University
Pensacola Orlando Miami Jacksonville Ft. Myers

Mr. William F. Caton
October 28, 1996
Page 2

not accept this application for filing nor will it allow this
application to move forward for grant.

With kind regards,

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles B. Reed". The signature is fluid and cursive, with the first name "Charles" and last name "Reed" clearly distinguishable.

Charles B. Reed
Chancellor

CBR/ibf

cc: Dr. Anthony J. Catanese

EXHIBIT 3

**Marketwide Settlement Agreement
and Joint Motion for Approval
Filed with the FCC on May 24, 1995**

VINCENT A. PEPPER
ROBERT F. CORAZZINI
PETER GUTHANN
JOHN F. GARZIGLIA
NEAL J. FRIEDMAN
ELLEN S. MANDELL
HOWARD J. BARR
LOUISE CYBULSKI *
L. CHARLES KELLER *
MICHAEL J. LEHMKUHL *
SUZANNE C. SPINK *
* NOT ADMITTED IN D.C.

PEPPER & CORAZZINI
L. L. P.
ATTORNEYS AT LAW
200 MONTGOMERY BUILDING
1776 K STREET, NORTHWEST
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(202) 296-0600

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FILE COPY
GREGG P. SRALL
E. THEODORE MALLYCA
OF COUNSEL
FREDERICK W. FORD
1909-1988
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
MAY 24 1995

RECEIVED

MAY 24 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 24, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

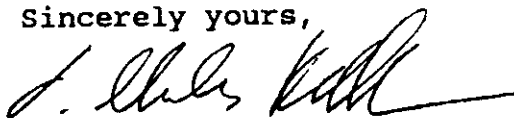
Re: ITFS Joint Motion for Approval of Settlement
West Palm Beach, Florida

Dear Mr. Caton:

There is transmitted herewith an original and four (4) copies of a Joint Motion for Approval of Settlement and Request for Waiver of Cut-off Rules. The settlement resolves mutually-exclusive proposals for the D group channels in West Palm Beach, Florida, by proposing a market-wide channel reallocation and collocation plan.

Should there be any question with respect to this filing, please communicate directly with the undersigned.

Sincerely yours,

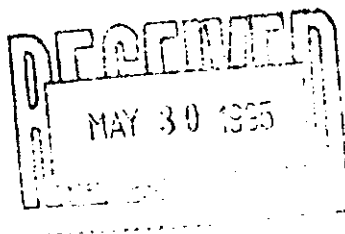


L. Charles Keller
Counsel to Wireless Broadcasting
Systems of America, Inc.

Enclosures

cc: Jennifer L. Richter, Esq.
William D. Wallace, Esq.
Mr. W. Douglas Trabert
Mr. Michael J. Specchio

lck/ls
c:\wp\2379f\joint.mot



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)	
)	
)	
The School District of Palm)	Petition for Displacement of KHU-90; KZB-28
Beach County, Florida)	KZB-29; WHR-973; WHR-994; KZB-30
)	
People's Choice TV, Inc.)	WMI841
)	
The Board of Regents, A Public)	BPLIF-920814DB; WLX-269; WHR-877;
Corporation of the State of Florida)	WHR-894; WHR-895; WHR-896;
on behalf of Florida Atlantic University)	WHR-897; WHR-901
)	
Wireless Broadcasting Systems of)	
West Palm Beach, Inc.)	
)	
For Construction Permit and License,)	
Modification, and/or Assignment of)	
Facilities in the Instructional)	
Television Fixed and Multichannel)	
Multipoint Distribution Services in the)	
West Palm Beach, Florida, Area)	
)	
To: Chief, Video Services Division		

**JOINT MOTION FOR APPROVAL OF SETTLEMENT
AND
REQUEST FOR WAIVER OF CUT-OFF RULES**

The School District of Palm Beach County, Florida (the "District"), People's Choice TV, Inc. ("PCTV"), Wireless Broadcasting Systems of West Palm Beach, Inc. ("WBS-WP) and the Board of Regents, a Public Corporation of the State of Florida, on behalf of Florida Atlantic University (the "University"), by counsel, hereby submit their Joint Motion for Approval of Settlement and Request for Waiver. In support thereof, the parties respectfully show as follows: